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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/452,285	11/30/1999	BRIAN LO BUE	CISCO-1515	1104
49715 7590 05/30/2008 CISCO - THELEN REID BROWN RAYSMAN & STEINER LLP P.O. BOX 640640 SAN JOSE, CA 95164-0640				
EXAMINER				
DINH, KHANH Q				
ART UNIT		PAPER NUMBER		
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

09/452,285

Applicant(s)

BUE ET AL.

Examiner

Khanh Dinh

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 March 2008.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4, 9-24, 26, 30-32, 52, 63-85 and 87-91 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1-4, 9-24, 26, 30-32, 52, 63-85 and 87-91 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
5) ☐ Notices of Informal Patent Application
6) ☐ Other: _____

DETAILED ACTION

1. This is in response to the Amendment and Remark filed on 3/3/2008. Claims 1-4, 9-24, 26, 30-32, 52, 63-85 and 87-91 are presented for examination.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

3. Claims 1-4, 9-23, 26, 30-31, 52, 63-85 and 87-91 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dixon et al., (hereafter Dixon) US pat. No. 6,058,424 in view of Lamarque et al., (hereafter Lamarque), U.S. pat. No.6,690,651.

As to claim 1, Dixon discloses a backup server (new application server for taking over data as the original application server fails) for enabling a data communications network to recover from a failure of said local server (original application server), comprising:

an information packet receiver responsive to the local server failure, the information packet receiver receiving from the memory associated with the NAS an information packet associated with a user request placed by the user via the NAS, wherein the information packet containing call information for maintaining connection of the ongoing call if the local server fails (taking over session as the original server fails, see abstract, figs.1, 5, col.3 lines 11-44 and col.7 line 53 to col.8 line 51 and col.9 line 46 to col.10 line 17);

the NAS capable of coupling a call placed from the call-in user to the data communications network and providing a network connection the local server (the control server sends a callback to the original application server to indicate that the session takeover has started, see col.10 lines 4-36);

a parser for reconstructing the call information data from said information data from the information data packet, whereby the server maintains the user request to the communications network (reconstructing information regarding all necessary session resources, see col.10 lines 18-36).

Dixon does not specifically disclose that user placing a request by calling in. However, Lamarque discloses a user placing a request by calling in [using a user (122 fig.1) to initiate a

call at a terminal to communicate with the servers and networks, see fig.1, col.3 line 22 to col.4 line 24]. It would have been obvious to one of ordinary skill in the art at the time the invention was made to utilize Lamarque's teachings into the computer system of Dixon to request data information through a network because it would have enabled user to bypass long distance carriers and their permanent usage rates and to run voice traffic over the Internet (see Lamarque's col.1 lines 24-67).

As to claims 2 and 3, Dixon discloses the call information including server attribute having an attribute/value pair that can be parsed into a plurality of separate data entries and a plurality of aggregated data elements from a call attribute table (see col.10 line 42 to col.11 line 54).

As to claim 4, Dixon discloses plurality of aggregated data elements of said information packet are separated by said parser for reconstructing said plurality of SSA information data from said information packet table (see col.8 lines 10-63 and col.10 line 42 to col.11 line 54).

As to claims 9, Dixon discloses a local server for enabling a data communications network, the system comprising:

an encoder for generating an information packet associated with the request, information packet containing request information for maintaining connection of the request fails (taking over session as the original server fails, see abstract, figs.1, 5, col.3 lines 11-44 and col.7 line 53 to col.8 line 51 and col.9 line 46 to col.10 line 17);

the NAS capable of coupling a call placed from the call-in user to the data communications network and providing a network connection the local server (the control server sends a callback to the original application server to indicate that the session takeover has started, see col.10 lines 4-36);

the NAS capable of coupling a call placed from the call-in user to the data communications network and providing a network connection the local server (the control server sends a callback to the original application server to indicate that the session takeover has started, see col.10 lines 4-36);

a sender for transmitting the information packet from the encoder to the memory, the information packet being stored in the memory to be available to the backup server if the local server fails (reconstructing information regarding all necessary session resources, see col.10 lines 18-36).

Dixon does not specifically disclose that user placing a request by calling in. However, Lamarque discloses a user placing a request by calling in (using a user (122 fig.1) to initiate a call at a terminal to communicate with the servers and networks, see fig.1, col.3 line 22 to col.4 line 24). It would have been obvious to one of ordinary skill in the art at the time the invention was made to utilize Lamarque's teachings into the computer system of Dixon to request data information through a network because it would have enabled user to bypass long distance carriers and their permanent usage rates and to run voice traffic over the Internet (see Lamarque's col.1 lines 24-67).

Claims 10-12 are rejected for the same reasons set forth in claims 2-4 respectively.

As to claims 13 and 17, Dixon discloses a local server for maintaining a call placed by a user to a data communications network, the system comprising:

a memory (inherent of a server) associated with the NAS, the NAS capable of coupling a call placed from the call-in user to the data communications network and providing a network connection the local server (the control server sends a callback to the original application server to indicate that the session takeover has started, see col.10 lines 4-36);

an encoder for generating an information packet associated with the request, information packet containing request information for maintaining connection of the request and a sender for transmitting the information packet from the encoder to the memory, the information packet being stored in the memory to be available to the backup server if the local server fails (taking over session as the original server fails, see abstract, figs.1, 5, col.3 lines 11-44 and col.7 line 53 to col.8 line 51 and col.9 line 46 to col.10 line 17);

a request coupler associated with the NAS for coupling the call to the local server if the local server does not fail, and for coupling to the backup server if the local server fails and a failure detector for determining if a failure of the local server has occurred (see col.9 line 46 to col.10 line 17);

an information packet requester (client's requests) for requesting the information packet from the memory to the backup server if the local server fails and a parser for reconstructing the information packet and serve the request without disconnecting the user from the network (reconstructing information regarding all necessary session resources, see col.10 lines 18-36).

Dixon does not specifically disclose that user placing a request by calling in. However, Lamarque discloses a user placing a request by calling in [using a user (122 fig.1) to initiate a call at a terminal to communicate with the servers and networks, see fig.1, col.3 line 22 to col.4 line 24]. It would have been obvious to one of ordinary skill in the art at the time the invention was made to utilize Lamarque's teachings into the computer system of Dixon to request data information through a network because it would have enabled user to bypass long distance carriers and their permanent usage rates and to run voice traffic over the Internet (see Lamarque's col.1 lines 24-67).

Claims 14-16 are rejected for the same reasons set forth in claims 2-4 respectively.

Claims 18 and 19 are rejected for the same reasons set forth in claims 2 and 3 respectively.

Claim 20 is rejected for the same reasons set forth in claim 13. As to the added limitations, Dixon discloses a backup server connected to the network to service the call (see col.7 line 53 to col.8 line 63 and col.10 lines 4-41).

Claims 21-23 are rejected for the same reasons set forth in claims 2-4 respectively.

Claim 26 is rejected for the same reasons set forth in claim 2.

As to claim 30, Dixon discloses a server backup system for maintaining a request placed by a user to a network, said system comprising:

a first server connected to the network for servicing the call and a second network server connected to the network for servicing the call if the first server fails and a network access server NAS for providing a network connection to a server, said NAS coupling a call to the first server if the first server does not fail and coupling the call to the second server if the first server fails (taking over session as the original server fails, see abstract, figs.1, 5, col.3 lines 11-44 and col.7 line 53 to col.8 line 51);

an encoder for generating an information packet associated with the request placed by a user via the NAS, information packet containing request information for maintaining connection of the request if the local server fails (see col.9 line 46 to col.10 line 17);

a sender for transmitting the information packet from said encoder to the memory associated with the NAS, the memory storing the information packet (see col.9 line 46 to col.10 line 17).

an information packet requester (client's requests) for requesting the information packet from the memory to the backup server if the local server fails and a parser for reconstructing the information packet (reconstructing information regarding all necessary session resources, see col.10 lines 18-36).

Dixon does not specifically disclose that user placing a request by calling in. However, Lamarque discloses a user placing a request by calling in (using a user (122 fig.1) to initiate a call at a terminal to communicate with the servers and networks, see fig.1, col.3 line 22 to col.4 line 24). It would have been obvious to one of ordinary skill in the art at the time the invention was made to utilize Lamarque's teachings into the computer system of Dixon to request data information through a network because it would have enabled user to bypass long distance

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carriers and their permanent usage rates and to run voice traffic over the Internet (see Lamarque's col.1 lines 24-67).

As to claim 31, Dixon discloses a data caller responsive to the failure detector for detecting the failure of the second server (see col.7 line 53 to col.8 line 51 and col.9 line 46 to col.10 line 17).

As to claim 52, Dixon further discloses said sender transmits the information packet in response to a request from the backup server (see fig.5, col.7 line 53 to col.8 line 51 and col.9 line 46 to col.10 line 41).

Claims 63 and 64 are rejected for the same reasons set forth in claims 13 and 2 respectively.

As to claims 65, Dixon further discloses petitioning to the NAS for the information packet after the NAS requests the request information and sending the request information to the NAS after completing reconstructing (see fig.5, col.7 line 53 to col.8 line 51 and col.9 line 46 to col.10 line 41).

Claim 66 is rejected for the same reasons set forth in claim 9.

As to claims 67 and 75, Dixon further discloses encoding a plurality of aggregated data elements from a call attribute table representing the SSA data and delimiting information packet into an

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attribute data string and a value data string (see fig.5, col.7 line 53 to col.8 line 51 and col.9 line 46 to col.10 line 67).

Claims 68-74 are rejected for the same reasons set forth in claims 13, 17, 2, 1, 2, 65 and 9 respectively.

Claims 76-79 are rejected for the same reasons set forth in claims 17, 2, 1 and 2 respectively.

Claims 80-84 are rejected for the same reasons set forth in claims 65, 9, 2, 17 and 2 respectively.

As to claims 85, 87-91, Dixon further discloses at least one of: Dialed Number Information Service, call type, calling Line Identification and service accounting information (see col.3 line 46 to col.4 line 47 and col.7 line 53 to col.8 line 63).

4. Claims 24 and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dixon and Lamarque as applied to claims 20-23 and 30-31 above, and further in view of Cisco System (hereafter Cisco), Network Wide Solution Manages Providers to Maximize Revenue from Dial VPN, April 5, 1999.

Neither Dixon nor Lamarque discloses using a Resource Pool Manager Server. However, Cisco discloses a Resource Pool Manager Server (see page 1). It would have been obvious to one of the ordinary skill in the art at the time the invention was made to implement a Resource Pool Manager Server in the computer system of Dixon to enhance the functionality of access servers because it would have provided Internet Service Providers and Telecommunications carriers with

a robust solution for managing concurrent dial network services across single or multiple network access servers.

Response to Arguments

5. Applicant's arguments filed 3/3/2008 have been fully considered but they are not persuasive.

- Applicant asserts that the examiner's rejection of claim 1 referring to the words that were cancelled from the preamble of Claim 1 in the Response mailed on September 6, 2007 (canceled limitation).
- *Examiner admitted the typo error by not removing the cancelled limitation in the preamble. However, the rejection is respectfully maintained since canceled limitation is an extra limitation in the preamble and does not change/effect the scope of the claim.*
- Applicant asserts that Dixon does not disclose a control server coupling a user's request to the network or providing a network connection to the application server.
- *Examiner respectfully disagrees. Examiner respectfully point out that Dixon discloses a control server coupling a user's request to the network or providing a network connection to the application server (implementing the control server to control/process the client's (201) requests and the application server to open a session with the control server. Dixon further discloses that the control server to*

send a callback to the original application server to indicate that the session takeover has started, see col.5 line 25 to col.6 line 33 and col.10 lines 4-36).

- Applicant asserts that the cited reference does not disclose a memory associated with the NAS from which an information packet containing call information for maintaining connection of an ongoing call if the local server fails.

Examiner respectfully disagrees. Dixon discloses the Applicant's claimed invention by showing a memory (allocating a memory space for the new application server) associated with a NAS from which an information packet containing call information for maintaining connection of an ongoing call if the local server fails (implementing the control server for sending a callback to the original application server to indicate that the session takeover has started after reconstructing information regarding all necessary session resources, see col.10 lines 4-36).

- Applicant further asserts that the references fail to provide motivation to combine the references.

*In response to applicant's argument that there is failure or no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, it would have enabled user to bypass long distance carriers and their*

permanent usage rates and to run voice traffic over the Internet (see Lamarque's col.1 lines 24-67) as rejected above.

- Applicant asserts that the cited references can not be combined since it does not provide any advantages of bypassing long distance carrier and their permanent usage rates.
- *In response to applicant's argument that the cited references can not be combine since it does not provide any advantages of bypassing long distance carrier and their permanent usage rates, the fact that applicant has recognized another advantage which would flow naturally from following the suggestion of the prior art cannot be the basis for patentability when the differences would otherwise be obvious. See Ex parte Obiaya, 227 USPQ 58, 60 (Bd. Pat. App. & Inter. 1985).*
- Applicant asserts that the cited references do not disclose the means or step plus function.
- *Examiner respectfully disagrees. In the claims, Examiner has shown that the cited references disclose the Applicant's claimed invention completely. As long as the references fully disclose the apparatus similar to the steps or means plus function, they disclose the Applicant's claimed invention. The Applicant's argument is fully considered but they are found not persuasive.*

As a result, cited prior art does disclose a server backup system for maintaining a request placed by a user to a network, as broadly claimed by the Applicants. Applicants clearly have

still failed to identify specific claim limitations that would define a clearly patentable distinction over prior art.

Conclusion

6. Claims 1-4, 9-24, 26, 30-32, 52, 63-85 and 87-91 are rejected.
7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Khanh Dinh whose telephone number is (571) 272-3936. The examiner can normally be reached on Monday through Friday from 8:00 A.m. to 5:00 P.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, FOLLANSBEE JOHN, can be reached on (571) 272-3964. The fax phone number for this group is (571) 273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Any response to this action should be mailed to:

Commissioner for patents

P O Box 1450

Alexandria, VA 22313-1450

/Khanh Dinh/

Primary Examiner, Art Unit 2151